

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>INDIAN LEIDER,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>DR. ARTHUR MOELLER, DO, Medical Doctor, individual and official capacity; OFFICER WILSON, Correctional Officer, individual and official capacity; CODY HANSON, Unit Manager, individual and official capacity; DAYNA KLAWITTER, Registered Nurse/Provider, individual and official capacity,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">4:22-CV-04006-KES</p> <p style="text-align: center;">ORDER DENYING PLAINTIFF’S MOTION FOR LEAVE TO PROCEED WITHOUT PREPAYMENT OF FEES AND REQUIRING PLAINTIFF TO PAY THE FULL FILING FEE</p>
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Plaintiff, Indian Leider, an inmate at the South Dakota State Penitentiary, filed a pro se petition pro se civil rights lawsuit under 42 U.S.C. § 1983. Docket 1. Leider moves to proceed in forma pauperis and included his prisoner trust account report. Dockets 2, 3.

Under the Prison Litigation Reform Act (the “Act”), a prisoner who “brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). The court may, however, accept partial payment of the initial filing fee where appropriate. Thus, “[w]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceeding or over a period of time under an installment plan.” *Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (alteration in original) (quoting *McGore v. Wigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)).

The initial partial filing fee that accompanies an installment plan is calculated according to 28 U.S.C. § 1915(b)(1), which requires a payment of 20 percent of the greater of:

- (A) the average monthly deposits to the prisoner's account; or
- (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

Leider reports an average monthly deposit of \$121.24 and an average monthly balance of \$1755.40. Docket 3 at 1. Based on the information regarding Leider's prisoner trust account, the court finds Leider has the wherewithal to pay the full filing fee and denies Leider leave to proceed in forma pauperis. Leider must pay the full filing fee of **\$402.00 by February 14, 2022**. Failure to pay the filing fee by February 14, 2022, will result in dismissal without prejudice of Leider's complaint.

Thus, it is ORDERED:

1. That Leider's motion to proceed in forma pauperis (Docket 2) is denied. Leider must make a payment of **\$402.00 by February 14, 2022**, made payable to the Clerk, U.S. District Court. If Leider does not pay the filing fee by February 14, 2022, his complaint will be dismissed without prejudice. The court will conduct a 28 U.S.C. § 1915A screening after he pays his filing fee.

Dated January 13, 2022.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE